

SECOND REGULAR SESSION

HOUSE BILL NO. 1382

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COX (Sponsor), RUZICKA AND SCHAD (Co-sponsors).

5042H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 559.100, 559.105, and 570.120, RSMo, and to enact in lieu thereof three new sections relating to restitution.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 559.100, 559.105, and 570.120, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 559.100, 559.105, and 570.120, to read as follows:

559.100. 1. The circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in sections 195.275 to 195.296, section 558.018, section 559.115, section 565.020, sections 566.030, 566.060, 566.067, 566.151, and 566.213, section 571.015, and subsection 3 of section 589.425.

2. The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his crime. The probation or parole may be revoked for failure to pay restitution or for failure to conform his behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.

3. Restitution, whether court ordered as provided in subsection 2 of this section or agreed to by the parties, or as enforced under section 558.011, shall be paid through the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 office of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit
18 the prosecuting attorney or circuit attorney from contracting with or utilizing another
19 entity for the collection of restitution and costs under this section. When ordered by the
20 court, interest shall be allowed under subsection 1 of section 408.040. In addition to all
21 other costs and fees allowed by law, each prosecuting attorney or circuit attorney who
22 takes any action to collect restitution shall collect from the person paying restitution an
23 administrative handling cost. The cost shall be twenty-five dollars for restitution less than
24 one hundred dollars and fifty dollars for restitution of one hundred dollars but less than
25 two hundred fifty dollars. For restitution of two hundred fifty dollars or more an
26 additional fee of ten percent of the total restitution shall be assessed, with a maximum fee
27 for administrative handling costs not to exceed seventy-five dollars total. In addition to the
28 administrative handling costs, an installment cost shall be assessed in the amount of two
29 dollars per installment, excepting the first installment, until such total amount of
30 restitution is paid in full. Notwithstanding the provisions of sections 50.525 to 50.745, the
31 costs provided for in this subsection shall be deposited by the county treasurer into a
32 separate interest-bearing fund to be expended by the prosecuting attorney or circuit
33 attorney. This fund shall be known as the "Administrative Handling Cost Fund", and it
34 shall be the fund for deposits under this section and under section 570.120. The funds shall
35 be expended, upon warrants issued by the prosecuting attorney or circuit attorney
36 directing the treasurer to issue checks thereon, only for purposes related to that authorized
37 by subsection 4 of this section. Notwithstanding the provisions of any other law, in
38 addition to the administrative handling cost, the prosecuting attorney or circuit attorney
39 shall collect an additional cost of five dollars per each crime victim to whom restitution is
40 paid for deposit to the Missouri office of prosecution services fund established in
41 subsection 2 of section 56.765. All moneys collected under this section which are payable
42 to the Missouri office of prosecution services fund shall be transmitted at least monthly by
43 the county treasurer to the director of revenue who shall deposit the amount collected to
44 the credit of the Missouri office of prosecution services fund under the procedure
45 established under subsection 2 of section 56.765. As used in this subsection, "crime victim"
46 means any natural person or their survivors or legal guardians, the estate of a deceased
47 person, a for-profit corporation or business entity, a nonprofit corporation or entity, a
48 charitable entity, or any governmental body or a political subdivision thereof.

49 4. The moneys deposited in the fund may be used by the prosecuting attorney or
50 circuit attorney for office supplies, postage, books, training, office equipment, capital
51 outlay, expenses of trial and witness preparation, additional employees for the staff of the

52 prosecuting or circuit attorney, employees' salaries, and for other lawful expenses incurred
53 by the prosecuting or circuit attorney in the operation of that office.

54 5. This fund may be audited by the state auditor's office or the appropriate
55 auditing agency.

56 6. If the moneys collected and deposited into this fund are not totally expended
57 annually, then the unexpended balance shall remain in the fund and the balance shall be
58 kept in the fund to accumulate from year to year.

59 7. Nothing in this section shall be construed to prohibit a crime victim from
60 pursuing other lawful remedies against a defendant for restitution.

559.105. 1. Any person who has been found guilty [of] or has pled guilty to [a violation
2 of subdivision (2) of subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of
3 subsection 3 of section 570.030] **an offense** may be ordered by the court to make restitution to
4 the victim for the victim's losses due to such offense. Restitution pursuant to this section shall
5 include, but not be limited to[, the following:

6 (1)] a victim's reasonable expenses to participate in the prosecution of the crime[;

7 (2) A victim's payment for any repairs or replacement of the motor vehicle, watercraft,
8 or aircraft; and

9 (3) A victim's costs associated with towing or storage fees for the motor vehicle caused
10 by the acts of the defendant].

11 2. No person ordered by the court to pay restitution pursuant to this section shall be
12 released from probation until such restitution is complete. If full restitution is not made within
13 the original term of probation, the court shall order the maximum term of probation allowed for
14 such offense.

15 3. Any person eligible to be released on parole [for a violation of subdivision (2) of
16 subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of subsection 3 of section
17 570.030 may] **shall** be required, as a condition of parole, to make restitution pursuant to this
18 section. The board of probation and parole shall not release any person from any term of parole
19 for such offense until the person has completed such restitution, or until the maximum term of
20 parole for such offense has been served.

21 4. **The court may set an amount of restitution to be paid by the defendant. Said**
22 **amount may be taken from the inmate's account at the department of corrections while the**
23 **defendant is incarcerated. Upon conditional release or parole, if any amount of such court-**
24 **ordered restitution is unpaid, the payment of the unpaid balance may be collected as a**
25 **condition of conditional release or parole by the prosecuting attorney or circuit attorney**
26 **under section 559.100. The prosecuting attorney or circuit attorney may refer any failure**

27 **to make such restitution as a condition of conditional release or parole to the parole board**
28 **for enforcement.**

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other similar
3 sight order or any other form of presentment involving the transmission of account information
4 for the payment of money, knowing that it will not be paid by the drawee, or that there is no such
5 drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight order or any other
7 form of presentment involving the transmission of account information for the payment of
8 money, knowing that there are insufficient funds in or on deposit with that account for the
9 payment of such check, sight order, or other form of presentment involving the transmission of
10 account information in full and all other checks, sight orders, or other forms of presentment
11 involving the transmission of account information upon such funds then outstanding, or that
12 there is no such account or no drawee and fails to pay the check or sight order or other form of
13 presentment involving the transmission of account information within ten days after receiving
14 actual notice in writing that it has not been paid because of insufficient funds or credit with the
15 drawee or because there is no such drawee.

16 2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing"
17 means notice of the nonpayment which is actually received by the defendant. Such notice may
18 include the service of summons or warrant upon the defendant for the initiation of the
19 prosecution of the check or checks which are the subject matter of the prosecution if the
20 summons or warrant contains information of the ten-day period during which the instrument may
21 be paid and that payment of the instrument within such ten-day period will result in dismissal
22 of the charges. The requirement of notice shall also be satisfied for written communications
23 which are tendered to the defendant and which the defendant refuses to accept.

24 3. The face amounts of any bad checks passed pursuant to one course of conduct within
25 any ten-day period may be aggregated in determining the grade of the offense.

26 4. Passing bad checks is a class A misdemeanor, unless:

27 (1) The face amount of the check or sight order or the aggregated amounts is five
28 hundred dollars or more; or

29 (2) The issuer had no account with the drawee or if there was no such drawee at the time
30 the check or order was issued, in which cases passing bad checks is a class C felony.

31 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney
32 or circuit attorney who takes any action pursuant to the provisions of this section shall collect
33 from the issuer in such action an administrative handling cost. The cost shall be twenty-five
34 dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred

35 dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more
36 an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for
37 administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the
38 provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be
39 deposited by the county treasurer into a separate interest-bearing fund to be expended by the
40 prosecuting attorney or circuit attorney. **This fund shall be known as the "Administrative**
41 **Handling Cost Fund", and it shall be the fund for deposits under this section and under**
42 **section 559.100.** The funds shall be expended, upon warrants issued by the prosecuting attorney
43 or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that
44 previously authorized in this section. Any revenues that are not required for the purposes of this
45 section may be placed in the general revenue fund of the county or city not within a county.
46 Notwithstanding any law to the contrary, in addition to the administrative handling cost, the
47 prosecuting attorney or circuit attorney shall collect an additional cost of five dollars per check
48 for deposit to the Missouri office of prosecution services fund established in subsection 2 of
49 section 56.765. All moneys collected pursuant to this section which are payable to the Missouri
50 office of prosecution services fund shall be transmitted at least monthly by the county treasurer
51 to the director of revenue who shall deposit the amount collected pursuant to the credit of the
52 Missouri office of prosecution services fund under the procedure established pursuant to
53 subsection 2 of section 56.765.

54 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney
55 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial
56 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney,
57 employees' salaries, and for other lawful expenses incurred by the circuit or prosecuting attorney
58 in operation of that office.

59 (3) This fund may be audited by the state auditor's office or the appropriate auditing
60 agency.

61 (4) If the moneys collected and deposited into this fund are not totally expended
62 annually, then the unexpended balance shall remain in said fund and the balance shall be kept
63 in said fund to accumulate from year to year.

64 6. Notwithstanding any other provision of law to the contrary:

65 (1) In addition to the administrative handling costs provided for in subsection 5 of this
66 section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the
67 face amount of the check, a reasonable service charge, which along with the face amount of the
68 check, shall be turned over to the party to whom the bad check was issued;

69 (2) If a check that is dishonored or returned unpaid by a financial institution is not
70 referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions

71 of this section, the party to whom the check was issued, or his or her agent or assignee, or a
72 holder, may collect from the issuer, in addition to the face amount of the check, a reasonable
73 service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by
74 the depository institution for the return of each unpaid or dishonored instrument.

75 7. When any financial institution returns a dishonored check to the person who deposited
76 such check, it shall be in substantially the same physical condition as when deposited, or in such
77 condition as to provide the person who deposited the check the information required to identify
78 the person who wrote the check.

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